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NOMINATION OF ROBERT MICHAEL KIMMITT

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

NOMINATION OF

ROBERT MICHAEL KIMMITT TO BE GENERAL COUNSEL OF THE TREASURY

JUNE 5, 1985

Printed for the use of the Committee on Finance

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NOMINATION OF ROBERT MICHAEL KIMMITT TO BE GENERAL COUNSEL OF THE TREASURY DEPARTMENT

WEDNESDAY, JUNE 5, 1985

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The committee met, pursuant to notice, at 9:15 a.m. in room SD-215, Dirksen Senate Office Building, Hon. Bob Packwood (chairman) presiding.

Present: Senators Packwood, Grassley, and Baucus.

Also present: Mr. William Diefenderfer, chief of staff; Mrs. Anne G. Cantrel, administrative director; and Mr. Michael Stern, minority staff director.

[The press release announcing the hearing, a biographical sketch of Robert Michael Kimmitt, and a letter from the U.S. Office of Government Ethics follow:]

FINANCE COMMITTEE SCHEDULES HEARING ON TREASURY NOMINATION

Senator Bob Packwood (R., Ore.), Chairman of the Committee on Finance, announced today that the Committee will conduct a hearing on Wednesday, June 5, 1985, on the nomination of Robert Michael Kimmitt to be General Counsel of the Treasury Department.

The hearing will commence at 9:15 a.m. in Room SD-215 of the Dirksen Senate Office Building.

Since 1978, Mr. Kimmitt has been the chief legal officer for the National Security Council. He received his B.S. from the U.S. Military Academy at West Point, N.Y., and J.D. from Georgetown University Law Center.

A. BIOGRAPHICAL INFORMATION

1. Name: Robert Michael Kimmitt

2. Address: 524 North Oxford Street
Arlington, VA 22203

3. Date and place of birth: December 19, 1947
Logan, Utah

4. Marital status: Married
Wife: Holly Sutherland Kimmitt

5. Names and ages of children:

Kathleen W. Kimmitt	5yrs
Robert M. Kimmitt, Jr.	3yrs
William P. J. Kimmitt	1½yrs
Thomas M. Kimmitt	1month

6. Education:

Georgetown University Law Center	Washington, DC	1974 to 1977	J.D.
Oklahoma University	Norman, OK	1972 to 1973	(Soviet/Chinese Studies)
U.S. Military Academy	West Point, NY	1965 to 1969	B.S.
O'Connell H.S.	Arlington, VA	1964 to 1965	H.S. Diploma

7. Employment record:

7/78 to present	Nat'l Security Council Robert C. McFarlane (1983-85) William P. Clark (1981-83) Richard V. Allen (1981) Zbigniew Brzezinski (1978-81)	White House, Wash, D.C.	Executive Secretary and General Counsel and Deputy Assistant to the President for National Security Affairs
8/77 to 7/78	Judge Edward Allen Tamm	Wash, D.C.	Law Clerk
6/76 to 8/77	NSC, Brent Scowcroft	Wash, D.C.	Staff Member
9/74 to 5/77	US Army	G'town Law Ctr	Student
6/73 to 8/74	US Army	Ft Campbell, KY	Gen Staff Ofc
7/72 to 5/73	US Army	Ft Sill, OK	Student
9/71 to 6/72	US Army	Ft Campbell KY	Unit Cmdr
4/70 to 8/71	US Army	Vietnam	Unit Cmdr
12/69 to 3/70	US Army	Ft Benning GA	Student
7/69 to 11/69	US Army	Ft Sill OK	Student

8. Government Experience:

Same as above.

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9. Memberships:

Association of Graduates	USMA, West Point, NY
Society/173rd Abn.Bde.	Fayetteville, NC
American Bar Assn.	Chicago, Ill.
D.C. Bar	Washington, DC

10. Political affiliations and activities: None

11. Honors and awards: Three Bronze Star Medals
Purple Heart
Air Medal
Vietnamese Cross of Gallantry
Distinguished Honor Graduate of Jumpmaster and Ranger courses

12. Published Writings: None, other than internal White House, National Security Council, and Federal Court memoranda.

13. Speeches: None, other than remarks (no written text) on the NSC System to various groups

14. Qualifications: Seven years as chief legal officer for the National Security Council (the last four as General Counsel), preceded by a one-year federal clerkship on the D.C. Circuit Court of Appeals.

ROBERT M. KIMMITT

EXPERIENCE:

1983-present	Deputy Assistant to the President for National Security Affairs and Executive Secretary and General Counsel of the National Security Council.
1982-1983	NSC General Counsel and Director of Legislative Affairs and Security Assistance.
1978-1982	NSC Legal Counsel and Arms Transfer Policy Officer.
1977-1978	Law Clerk, Judge Edward A. Tamm, U.S. Court of Appeals for the D.C. Circuit.
1976-1977	NSC Arms Transfer Policy Officer.
Summer 1975	Legislative Counsel to Army Chief of Legislative Liaison.
1971-1974	Battery Commander and Division Staff Officer, 101st Airborne Division, Ft. Campbell, KY.
1970-1971	Forward Observer, Fire Direction Officer, Battery Executive Officer, Battalion Liaison Officer, and Battery Commander, 173rd Airborne Brigade, Vietnam.

EDUCATION:

Georgetown Law School (J.D. 1977):
-- Editor in Chief, Law and Policy in International Business.
-- Upper 10 percent of graduating class.
-- Legal writing instructor and faculty research assistant.

U.S. Military Academy, West Point, New York (B.S. 1969):
-- Distinguished graduate (9th of 800).
-- Cadet Captain and class officer.
-- Intercollegiate soccer and rugby (co-captain 1969).

GENERAL:

-- Admitted to practice in federal and local courts in District of Columbia; Member, American Bar Association; visiting lecturer, Georgetown Law School; Term Member, Council on Foreign Relations (1977-82); Trustee, Association of Graduates, U.S. Military Academy (1977-81).
-- Awards: 3 Bronze Star Medals, Purple Heart, Air Medal, Vietnamese Cross of Gallantry, numerous meritorious service medals, Senior Parachutist Badge (first in Jumpmaster class), Ranger Tab (first in class).
-- Major, U.S. Army Reserve (instructor of national security studies at West Point).

PERSONAL:

-- Born December 19, 1947, Logan, Utah.
-- Married, four children.

ROBERT M. KIMMITT

Deputy Assistant to the President for National Security Affairs
and
Executive Secretary and General Counsel
National Security Council

Mr. Kimmitt was appointed by President Reagan in 1983 to the positions of Deputy Assistant to the President for National Security Affairs and Executive Secretary of the National Security Council (NSC). He also retained his previous designation as General Counsel to the NSC. As Executive Secretary of the NSC, Mr. Kimmitt directs the NSC Staff in support of the President and his Assistant for National Security Affairs. As General Counsel to the NSC, he provides advice on legal aspects of national security matters coming before the President and the NSC.

After being graduated in 1969 from the U.S. Military Academy at West Point, Mr. Kimmitt served a seventeen-month combat tour with the 173rd Airborne Brigade in Vietnam (1970-1971) and was then assigned to the 101st Airborne Division at Ft. Campbell, Kentucky (1972-1974). He attended Georgetown Law School from 1974-1977 on an Army scholarship, during which period he also was assigned as a legislative counsel to the Army's Chief of Legislative Liaison (summer 1975) and then as an NSC Staff member specializing in arms sales (1976-1977). Upon graduation from law school, he served as a law clerk to Judge Edward A. Tamm of the U.S. Court of Appeals for the D.C. Circuit (1977-1978). He returned to the NSC Staff in 1978, serving both as NSC legal counsel and arms sales policy officer. In early 1982, he left active military service to assume the civilian positions of NSC General Counsel and Director of Legislative Affairs & Security Assistance, which he held until his Presidential appointments in 1983.

Mr. Kimmitt stood 9th in his 800-man class at West Point (B.S. 1969) and was in the upper 10 percent of his law school class at Georgetown University (J.D. 1977), where he served as Editor in Chief of Georgetown's international law journal, Law and Policy in International Business. He also was a legal writing instructor for first-year students and a research assistant for Professor Robert Schoshinski.

Mr. Kimmitt is a Major in the U.S. Army Reserve and serves as an instructor of national security studies in the Department of Social Sciences at West Point. He is also a member of the American Bar Association's Standing Committee on Law and National Security. His military decorations include: three Bronze Star Medals; Purple Heart; Air Medal; and Vietnamese Cross of Gallantry. He is qualified as an Airborne Ranger and was the distinguished honor graduate of both his Jumpmaster and Ranger courses.

Mr. Kimmitt lives in Arlington, Virginia, with his wife Holly and children Kathleen (5), Robert (3), William (1½), and Thomas (two months). He was born on December 19, 1947.

May 1985

United States of America
Office of Government Ethics

Office of Personnel Management
P.O. Box 14108
Washington, D.C. 20044

JUN 4 1985

Honorable Robert Packwood
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Robert M. Kimmitt, who has been nominated by President Reagan for the position of General Counsel, Department of Treasury.

We have reviewed the report and have also obtained advice from the Department of Treasury concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Kimmitt is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

CON 132-64-0
March 1985

The CHAIRMAN. The hearing will come to order, please. We are here to consider the nomination of Robert Kimmitt to be the general counsel for the Treasury Department. I must say, in looking at Mr. Kimmitt's résumé, I have seldom met anyone that is more qualified, from the standpoint of having a varied background, to take this position. I think he is as well qualified a person as I have ever seen. And I am delighted to have with us this morning the senior Senator from Virginia, John Warner, to do the introduction.

Senator?

STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Thank you, Mr. Chairman, Senator Baucus. Indeed it is a privilege for me to introduce Robert M. Kimmitt from the Commonwealth of Virginia who has been nominated by the President to serve as general counsel of the Department of the Treasury.

I have known this fine gentleman for many years, and I can unequivocally attest that his qualifications for this important position are, as the chairman has noted, of the highest order.

An honor graduate of the U.S. Military Academy at West Point and the Army's Ranger School, Bob graduated from Georgetown University Law School in 1977. While attending Georgetown, Bob served as editor in chief of the international law journal, and he later clerked for Judge Edward A. Tamm of the U.S. Court of Appeals, D.C. Circuit.

Bob joined the National Security Council staff in 1978. He held important legal and policy positions at the Council until 1983, when he was appointed by President Reagan to be Executive Secretary and general counsel of the National Security Council and Deputy Assistant to the President for National Security Affairs.

In addition to his responsibilities with the NSC, Bob also is one of the original volunteers of the group which built the Vietnam Veterans Memorial on the Mall.

In that vein, Bob served a 17-month combat tour in Vietnam with the 173d Airborne Brigade, and later served with the 101st Airborne Division at Fort Campbell, KY. He holds the Purple Heart, three Bronze Stars, the Air Medal, the Vietnamese Cross of Gallantry, and numerous service awards.

He is joined by his wife, Holly, and two of his four children. Like his father, known to all of us here in the Senate and respected highly, Stan Kimmitt, once the Secretary of the Senate, Bob's roots trace back to the great State of Montana. But I am pleased to advise the committee that Bob has the good sense now to make Virginia his home. And that, Mr. Chairman, is perhaps his most outstanding qualification to this committee.

The CHAIRMAN. Do you mind if we question you rather than him.

Senator WARNER. I am going to make a hasty retreat, and he is on his own. [Laughter.]

The CHAIRMAN. Thank you very much, Senator. We appreciate it.

Mr. Kimmitt, in your position, of course, you are going to have an oblique connection with taxes, not as if you were the Assistant Secretary for Tax Policy, but from time to time you are going to have to give legal advice on cases involving taxation.

I want to ask you very briefly what is your view about taxes? And I don't want to get you into the argument about tax reform. We are going to start that next week anyway with Secretary Baker, and the Commissioner of Internal Revenue Service, and about 250 other witnesses.

I am curious about your philosophy of using the Tax Code for incentives to achieve what might be regarded as worthy social purposes versus not using it for incentives, getting the rates as low as possible, but not using it for incentives by getting rid of most deductions. And I say "most." I realize in the scheme of things we are not likely to touch charitable contributions or home mortgage interest, or some very, very sensitive deductions.

TESTIMONY OF ROBERT MICHAEL KIMMITT, GENERAL COUNSEL-DESIGNATE OF THE DEPARTMENT OF THE TREASURY

Mr. KIMMITT. Thank you, Mr. Chairman.

I, first, would like to say that it is an honor to appear this morning, as well as an honor, of course, to have been nominated by the

President for this position. Also, if I could, I would like to thank Senator Warner for taking time to introduce me this morning.

You are correct that the general counsel is involved generally in an oblique fashion on tax matters. Of course, since I have been serving at the White House and not at Treasury during the period of formulation of this proposal, I have not been involved in the day-to-day preparation of the proposal put before you by the President and on which the Secretary will testify next week.

I think, though, that one of the greatest social benefits that could accrue to the public in general is continued economic growth and expansion, and therefore to the extent the new proposal does provide for growth as well as fairness and simplicity, I think there is a definite societal gain.

My understanding of the way this proposal is formulated, however, is that there was an attempt to balance the old and new provisions so that some of the very basic societal interests that you mentioned, Mr. Chairman, would, in fact, be protected.

I think in the formulation of this proposal, however, there was some give and take. And, ultimately, I think the proposal that was put before you was one the President believes would serve the society across the board in terms of making the code simpler and fairer, and would provide for continued economic growth, which ultimately I think is among the greatest societal benefits that we, as public servants, can pass along.

The CHAIRMAN. We hope it will encourage economic growth. But the longer I am at this business and the more I hear economists testify, the more pessimistic I become that we can be sure what we are going to do is going to lead to an intended effect. And I don't mean that discouragingly of them, or us, or anybody else. The world is more uncertain than we think it is. But I know what you are saying.

We are hoping by cutting rates, especially by cutting individual rates, that people will be a little bit more willing to take a little bit more risk if they can keep a little bit more money. And that overall in terms of a market decision is a better decision than the Government determining it by tax policy.

Mr. KIMMITT. It seems to me, too, Mr. Chairman, that the economic markets, generally, but the people, particularly, do respect governmental institutions demonstrating the willingness to step up to a difficult problem and grapple with it. And to the extent that this proposal and the joint efforts that will be required between the executive and legislative branches show a willingness not to duck a difficult problem but to try to take it on, I think, ultimately, we will inspire individual confidence on the part of investors and others that will lead to the economic growth the President hopes will be embodied here.

The CHAIRMAN. Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Chairman, I would like to also welcome Bob to the committee. As Senator Warner said, Bob is a Virginian, but he has also represented other States in our country. In fact, we claim him as a Montanan. The reason we can make this claim is that Bob comes from one of Montana's finest families, the Kimmitt family. As you all know, Stan Kimmitt was once Secretary of the Senate. Stan is

special to me because it was he who administered the oath of office when I came to the Senate. In addition to that though, Stan has always been known to us in Montana as Montana's third Senator.

And I know that Bob is going to continue in the same tradition of impeccable dedication to competence and integrity and industry as has Stan, his father. Obviously, the credentials which Bob has shown us, indicate that. And I think there is no doubt that the President made an excellent choice in Bob Kimmitt.

Bob also has another outstanding quality. He can work with both Republicans and Democrats. I think in these days, particularly if we are going to have a tax bill passed this year, we have to have more bipartisanship, and I think you will find that Bob will demonstrate that.

Mr. Chairman, Bob is the second outstanding Montanan who the President has appointed to a high office, the other being Mike Mansfield. So we are very proud of Bob, and I know Bob is going to do a terrific job.

The CHAIRMAN. Thank you.

Senator BAUCUS. I have no questions, Mr. Chairman.

The CHAIRMAN. Senator Grassley.

Senator GRASSLEY. Well I welcome the new appointee, and say that I don't have any questions. But I endorse what has been said already, and look forward to working with him. In his new capacity we will have a lot to do with those of use on the Finance Committee, and, in fact, over the next several months probably more to do with each other than time will permit. But as we devote ourselves to that effort, cooperation will be the name of the game. Thank you very much.

Mr. KIMMITT. Thank you, Senator.

The CHAIRMAN. Mr. Kimmitt, I have no other questions. Let me say once more how impressed I am with your background. We seldom have somebody of your extraordinary qualifications willing to continue, when I know what your value has to be in the outside market if you wanted to do it. And I appreciate very much you continuing the sacrifice.

Holly, thank you for coming and bringing the children this morning. We appreciate it.

If there are no other questions, Mr. Kimmitt, you are excused.

Mr. KIMMITT. Thank you, Mr. Chairman. I look forward to working with you and members of the committee.

The CHAIRMAN. Thank you very much.

Mr. KIMMITT. Thank you.

[Whereupon, at 9:25 a.m., the hearing was concluded.]

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